

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO. 4:12-CR-00054-FL-1
4:15-CV-00187-FL

UNITED STATES OF AMERICA

v.

NIGEL OMAR GRAY

NOTICE OF SUGGESTION OF
SUBSEQUENT AUTHORITY

NOW COMES Nigel Omar Gray, by and through counsel, and hereby submits this notice of supplemental authority addressing legal issues raised in Mr. Gray's motion under 28 U.S.C. § 2255 [D.E. 55] and response in opposition to the government's motion to dismiss [D.E. 65]. The Court may find the decision helpful in resolving the issues presented in the pending motions:

The Fourth Circuit on May 18, 2016, held in a published decision that North Carolina common law robbery is categorically not a violent felony within the meaning of § 924(e)(2)(B)(i), *United States v. Gardner*, No. 14-4533, 2016 U.S. App. LEXIS 9066 (4th Cir. May 18, 2016). The mandate in this matter has not yet issued.

Respectfully submitted this 6th day of June, 2016.

THOMAS P. McNAMARA
Federal Public Defender

/s/ Sherri Royall Alspaugh
SHERRI ROYALL ALSPAUGH
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LR 57.1 Counsel
Appointed

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served upon:

SETH MORGAN WOOD
Assistant United States Attorney
Suite 800, Federal Building
310 New Bern Avenue
Raleigh, NC 27601-1461

by electronically filing the foregoing with the Clerk of Court on June 6, 2016, using the CM/ECF system which will send notification of such filing to the above.

This the 6th day of June, 2016.

/s/ Sherri Royall Alspaugh
SHERRI ROYALL ALSPAUGH
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